

REMARKS

This Amendment is submitted in reply to the Office Action dated October 4, 2007 (hereinafter, "the Office Action"). In the Office Action, the claims were restricted as follows:

- Group I.** Claims 1-28 and 34 drawn to a method of monitoring progression of a xenograft in a non-human host animal by implanting with cells that were modified before implantation.
- Group II.** Claims 1-28 and 34 drawn to a method of monitoring progression of a xenograft in a non-human host animal by implanting with cells that were modified after implantation.
- Group III.** Claims 30 and 33 drawn to a gene construct and a cell line.
- Group IV.** Claims 35 and 36 drawn to a kit comprising a reporter cell/system.

In response, Applicants have canceled Claims 30, 33, 35 and 36 without prejudice, and hereby elect Group I corresponding to Claims 1-28 and 34 drawn to a method of monitoring progression of a xenograft in a non-human host animal by implanting with cells that were modified *before* implantation.

The Office Action further indicates that if either Group Group II or I is elected, Applicants must further elect a single species as noted on pages 3 through 5 of the Office Action. Accordingly, Applicants hereby elect the following: (a) immortalized cell line, (b) protein, (c) hCG, (d) protein, (e) immunologically intact, (f) gene transcription, (g) transcriptionally, (h) GADD153 promoter, (i) activation or deactivation of a transcription factor and (j) invasive assay.

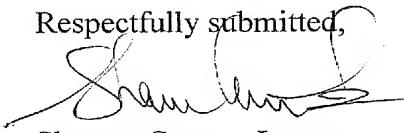
It is Applicants' understanding that upon the allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species that depend from or otherwise include all the recitations of an allowable generic claim. In particular, Applicants respectfully request consideration of additional species with respect to Claims 5, 19, 22, 23 and 27. Applicants respectfully submit that an aspect of the present invention relates to use in a complex biological system. The information to be obtained is multifactorial, and as such, the use of a combination of reporter genes and associated promoters may provide measurements to monitor progression as recited in the pending claims.

In further response to the restriction requirement, Applicants respectfully request examination of Group II corresponding to Claims 1-28 and 34 drawn to a method of monitoring progression of a xenograft in a non-human host animal by implanting with cells that were modified *after* implantation. Applicants' request is on the basis that the Examiner has not demonstrated that the requirements for claim restriction have been met. In particular, it is stated in section 803 of the Manual of Patent Examining Procedure (hereinafter, "MPEP") that two criteria for proper restriction of claims must be met: 1) The inventions must be independent and distinct as claimed, *AND* 2) there must be a serious burden on the examiner if restriction is required. The MPEP further states that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions."

Applicants respectfully submit that the simultaneous examination of Claims 1-28 and 34 drawn to a method of monitoring progression of a xenograft in a non-human host animal by implanting with cells that were modified *before* or *after* implantation would facilitate efficient prosecution of this application, which is clearly beneficial to both Applicants and the United States Patent and Trademark Office, without serious burden to the Examiner.

In an effort to facilitate efficient prosecution of the present application, in the event that the Examiner is not inclined to exam the application as requested by Applicants, Applicants' representative respectfully requests a teleconference with the Examiner to discuss the same.

Applicants respectfully submit that this application is now in condition for substantive examination, which action is requested.

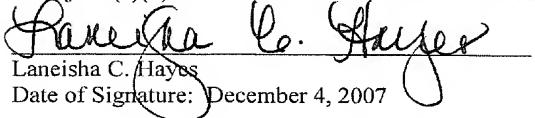
Respectfully submitted,

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In re: Charles Roland Wolf
Application No.: 10/551,861
Filed: September 30, 2005
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CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on December 4, 2007.


Laneisha C. Hayes
Date of Signature: December 4, 2007